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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,910	06/26/2003	Sverker Norrby	10806-122A	5750
24256	7590	09/20/2005	EXAMINER	
DINSMORE & SHOHL, LLP 1900 CHEMED CENTER 255 EAST FIFTH STREET CINCINNATI, OH 45202			MANUEL, GEORGE C	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/606,910	NORRBY ET AL.
	Examiner	Art Unit
	George Manuel	3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 6/26/03.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 77-118 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 77-118 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. 09/863,546.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>6/26/03</u> .	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Inadvertent Mailing***

The Notice of Allowability mailed 7/14/2005 was in error.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 77-81, 105-107, 109-112 and 115 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Roffman et al '802.

Roffman et al disclose making a contact lens in which the back surface corrects for the primary and higher order optical aberrations of the cornea. The sphere, cylinder and axis are determined based on an analysis of the wavefront and Roffman et al teach reducing the Hartmann Shack wavefont data to Zernike coefficient terms to derive the sphere, cylinder and axis information.

Claims 82-87, 94-96, 100, 108 and 116-118 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Williams et al '651.

Williams et al disclose a system for fabricating either a contact lens or an intraocular lens using weighted Zernike polynomials.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 113 and 114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roffman et al '802.

Roffman et al show all of the claimed features except for the soft contact lens comprising silicone or hydrogel. One of ordinary skill in the art would have found it obvious to use silicone or hydrogel for the soft contact lens because these materials are well known in the art for use with contact lenses.

Claims 88-93, 97-99, 101-104 and 114 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al '651.

Regarding claims 88-93, one of ordinary skill in the art would have found it obvious to formulate the Zernike weighting based on a patient's age or whether the patient is going to have or had corneal surgery or cataract surgery because eye surgery and age are well known to affect eye refraction and shape.

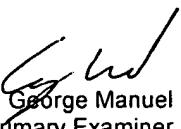
Regarding claims 97-99, as discussed above, one of ordinary skill in the art would have found it obvious to use a silicone material with the claimed characteristics or a hydrogel for the base material for the ophthalmic lens because these material are well known for use in ophthalmic lens manufacture.

Regarding claims 101-104, one of ordinary skill in the art would have found it obvious to provide the claimed interval ranges for the claimed apertures because a 2

mm to 3.5 mm aperture is within the range of use for the Williams et al system for an ophthalmic lens using weighted Zernike polynomials.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Manuel whose telephone number is (571) 272-4952.



George Manuel  
Primary Examiner  
Art Unit: 3762

9/16/05